

**REMARKS/ARGUMENTS**

Applicant thanks the Examiner for the Final Office Action dated January 28, 2008. In response, Applicant is requesting that the Examiner favorably consider the following remarks and reconsider the rejections made in that Office Action. In the event that the Examiner does not agree with the Applicant that the outstanding Final Office Action should be withdrawn, Applicant requests that the Examiner amend the claims in the manner set forth in this amendment.

**I. *The Examiner's Interpretation of "Means for Fixedly Connecting" is Incorrect***

Claim 1 recites the following element:

means for fixedly connecting said upper portion of said enclosure to said lower portion of said enclosure for fixing the position of said upper portion of said enclosure with respect to said lower portion of said enclosure; and

The element pointed to by the Examiner as means for fixedly connecting is a bolt 184. The bolt 184 of Cristy is not explicitly described in the specification of Cristy. However, it is apparent that a bolt 184 is a portion of an intermediate support body 180, which is described in Cristy as comprising a pair of wood rings 182 and 183, which are secured by bolting or gluing. The support body 180 is adjustably supported by an airbag 172 so that the support body 180 may move with respect to the inner and outer cylinders 142, 144 of Cristy.

The Examiner and the Applicant seem to agree that the means for fixedly connecting of Cristy does not prevent relative movement of the upper and lower housing portions of Cristy. However, the Examiner contends that the means for fixedly connecting as stated in claim 1 means only that the elements are connected, not that the elements are not moveable relative to one another. Applicant has

submitted herewith an excerpt from *The New Oxford American Dictionary, 2<sup>nd</sup> Ed.*, wherein the term “fixed” is defined. Definition number one in that dictionary for “fixed” states “fastened securely in position: *a fixed iron ladder down the port side.* remaining in the same place with respect to another object: *a fixed satellite.* Thus, Applicant respectfully submits that “fixedly connecting” means that the elements are connected such that they are not movable with respect to one another. None of the other definitions for “fixed” in that dictionary are inconsistent with the Applicant’s interpretation of “fixedly connected.” Furthermore, Applicant is aware of no definition of the term “fixed” that supports the Examiner’s contention that “fixedly connected” means “movably connected.” Accordingly, the Examiner’s definition of “fixedly connected” is unsupported and is not consistent with any reasonable interpretation of the word “fixedly.”

In addition to the foregoing, the claim limitation at issue goes on to state “for fixing the position of said upper portion of said enclosure with respect to said lower portion of said enclosure.” Applicant respectfully submits that the Examiner has failed to give this language meaning. Surely, the Examiner does not contend that fixing the position of one element with respect to another element allows those elements to move with respect to one another.

In light of the foregoing, the Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-3, 7, and 8 over Cristy, as Cristy does not show means for fixedly connecting an upper portion of an enclosure to a lower portion of an enclosure.

## **II. *Cristy Does Not Show Every Element of Claim 3***

Cristy fails to disclose the bearing member of claim 3 for the following reasons:

1. The bearing member 14 of Cristy is not disposed within the enclosure 180, 182, 186, 188, 142, 144, 150, 160, 183, as required by claim 3;

2. The bearing member 14 of Cristy cannot be considered to be in contact with the support member 172 of Cristy, as required by claim 3, since the elements identified by the Examiner as the anchor ring and enclosure of Cristy are disposed between the elements identified as the bearing member and support member of Cristy;
3. The bearing member 14 of Cristy cannot be considered to be adjustably connected to the anchor ring 183 of Cristy, since the elements 180, 184 of Cristy asserted by the Examiner as providing adjustment are simply portions of the intermediate support body 180 of Cristy, and the specification of Cristy does not support that these elements are adjustably connected to one another.

In view of the foregoing deficiencies in the rejection of claim 3, Applicant respectfully requests that the rejection of claim 3 be withdrawn.

### **III. *Cristy Does Not Disclose Every Element of Claim 9***

The rejection of claim 9 is deficient on two separate grounds.

First, Cristy does not render obvious the plurality of fasteners as stated in claim 9. Claim 9 requires that the fasteners connect the bearing member to the anchor ring for vertical adjustment of the anchor ring with respect to the bearing member. The relevant portions of Cristy are a pair of wood rings 182 and 183, which are secured to one another by a bolt 184. These elements, in combination, comprise the circular-shaped, intermediate support body 180 of Cristy. Quite simply, the circular-shaped, intermediate support body 180 is a pair of wooden rings connected together to create a body with a stepped profile. There is no teaching or suggestion in Cristy that these elements are adjustably connected to one another. Furthermore, the Examiner's contention that the plurality of fasteners could be nails vitiates adjustability. The Examiner's assertion is not supported by

substantial evidence, and is improper (Cristy, Col. 5, line 65 – Col. 5, line 12).

Second, claim 9 requires a support member in contact with a bearing member. As previously explained in the context of claim 3, the support member and bearing member of Cristy, as identified by the Examiner, are separated by intervening elements and thus are not in contact with one another. Any attempt by the Examiner to contend that these elements are in contact with one another through other elements is an attempt to ignore a limitation of this claim and is improper.

In view of the foregoing, Applicant respectfully requests that the rejection of claim 9 and its dependent claims 17-20 be withdrawn.

#### **IV. *Proposed Claim Amendment***

If the Examiner withdraws the claim rejections, as requested above, Applicant requests that the Examiner not enter the amendment to the claims submitted herewith. However, in the case that the Examiner does not withdraw the rejections, as requested above, Applicant respectfully requests that the Examiner amend the claims in the manner set forth in this Amendment, for the reasons that follow.

The proposed claim amendment replaces the phrase “means for fixedly connecting” in claim 1 with the phrase “means for rigidly connecting.” Applicant submits that this phrase, “means for rigidly connecting,” requires that the stated elements be connected so that they do not move with respect to one another.

Applicant recognizes that Amendments After Final are limited in nature. However, Applicant submits that this Amendment After Final rejection places this application in condition for allowance and/or at least places this application in better form for Appeal. This Amendment is necessary to resolve the disagreement between the Examiner and the Applicant between the meaning of the phrase

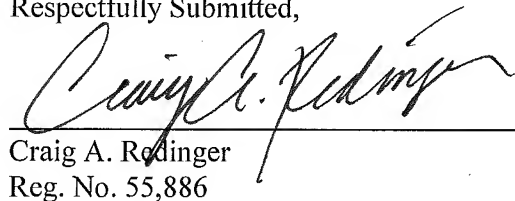
“means for fixedly connecting.” This Amendment was not earlier presented because Applicant believed that the prior responses placed this application in condition for allowance. Accordingly, entry of the present Amendment, as an earnest attempt to advance prosecution and/or to reduce the number of issues for Appeal, is requested under 37 C.F.R. §1.116.

In the January 28, 2008 Office Action, the Examiner specifically recognized that the Applicant intended to claim that the “means for fixedly connecting” prevented relative movement of the upper and lower portions of the enclosure. Accordingly, it is Applicant’s belief that the Examiner, in following the principals of compact prosecution, and in the interest of avoiding piecemeal examination, has applied the best reference at the Examiner’s disposal in light of the Examiner’s knowledge of the Applicant’s intent. Accordingly, Applicant respectfully submits that no new search or further consideration should be required. Thus, the Applicant respectfully requests that the Examiner exercise his discretion to enter the Amendment submitted herewith.

**V. Conclusion**

If the Examiner has any questions or comments regarding this matter, Applicant’s undersigned counsel may be reached at (734) 662-0270 or by electronic mail at [redinger@ybpc.com](mailto:redinger@ybpc.com).

Respectfully Submitted,



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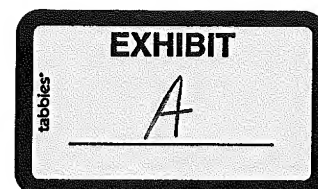
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**position.** ■ settle the form of (a language). ■ assign or determine (a person's liability or responsibility) for legal purposes: *there are no facts that fix the defendant with liability.* ■ make (something) permanent or static in nature: *the rate of interest is fixed for the life of the loan.* ■ make (a dye, photographic image, or drawing) permanent. ■ *Biology* preserve or stabilize (a specimen) with a chemical substance prior to microscopy or other examination: *specimens were fixed in buffered formalin.* ■ (of a plant or microorganism) assimilate (nitrogen or carbon dioxide) by forming a nongaseous compound: *lupines fix gaseous nitrogen in their root nodules.* ■ *Informal* influence the outcome of (something, esp. a race, contest, or election) by illegal or underhanded means: *the foundation denies fixing races.* ■ put (an enemy or rival) out of action, esp. by killing them: *don't you tell nobody, or I'll fix you good!* ■ *Informal* [intrans.] take an injection of a narcotic drug. ■ *Informal* castrate or spay (an animal); neuter.

► **n.** 1 [in sing.] *Informal* a difficult or awkward situation from which it is hard to extricate oneself; a predicament: *how on earth did you get into such a fix?* 2 *Informal* a dose of a narcotic drug to which one is addicted: *he hadn't had his fix.* ■ *figurative* a thing or activity that gives a person a feeling of euphoria or pleasure and that it is difficult to do without: *that rush of adrenaline that is the fix of the professional newsman.* 3 *Informal* a solution to a problem, esp. one that is hastily devised or makeshift: *representatives trying to find cheap fixes to meet their obligations.* See also **QUICK FIX.** 4 a position determined by visual or radio bearings or astronomical observations. 5 [in sing.] *Informal* a dishonest or underhanded arrangement: *obviously, his appointment was a fix.* ▶late Middle English: partly from Old French *fix* 'fixed,' partly from medieval Latin *fixare* 'to fix,' both from Latin *fixus*, past participle of *figere* 'fix, fasten.' The noun dates from the early 19th cent. —**fix-a-ble** /'fiksəbəl/ *adj.*

► **PHRASE** □ **get a fix on** determine the position of (something) by visual or radio bearings or astronomical observation. ■ *Informal* assess or determine the nature or facts of; obtain a clear understanding of: *it is hard to get a fix on their ages.*

**fix-ate** /'fiksət/ ► **v.** [trans.] 1 [usu. be fixated on/upon] cause (someone) to acquire an obsessive attachment to someone or something: *she has for some time been fixated on photography.* ■ [intrans.] (fixate on/upon) acquire such an obsessive attachment to: *it is important not to fixate on animosity.* ■ (in Freudian theory) arrest (a person or their libidinal energy) at an immature stage, causing an obsessive attachment. 2 *technical* direct one's eyes toward: *subjects fixated a central point* | [intrans.] there is tendency to fixate near the beginning of the line of print. ▶late 19th cent.: from Latin *fixus*, past participle of *figere* (see **FIX**) + **-ATE** 3.

**fix-a-tion** /'fiksəʃən/ ► **n.** 1 an obsessive interest in or feeling about someone or something: *his fixation on the details of other people's erotic lives* | *our fixation with diet and fitness.* ■ *Psychoanalysis* the arresting of part of the libido at an immature stage, causing an obsessive attachment: *fixation at the oral phase might result in dependence on others* | *an oral-maternal fixation.* 2 the action of making something firm or stable: *sand dune fixation.* ■ *Biochemistry* the process by which some plants and microorganisms incorporate gaseous nitrogen or carbon dioxide to form nongaseous compounds: *his work on nitrogen fixation in plants.* ■ *Biology* the process of preserving or stabilizing (a specimen) with a chemical substance prior to microscopy or other examination: *biopsy specimens were placed in cassettes before fixation in formalin.* 3 *technical* the action of concentrating the eyes directly on something: *during the period of total blindness there was a complete absence of visual fixation.* ▶late Middle English (originally as an alchemical term denoting the process of reducing a volatile spirit or essence to a permanent bodily form): from medieval Latin *fixatio(n)-*, from *fixare* (see **FIX**).

**fix-a-tive** /'fiksətɪv/ ► **n.** 1 a chemical substance used to preserve or stabilize biological material prior to microscopy or other examination: *an alcoholic fixative* | *ten double drops of fixative.* ■ a substance used to stabilize the volatile components of perfume. ■ a liquid sprayed on to a pastel or charcoal drawing to fix colors or prevent smudging. 2 a substance used to keep things in position or stick them together: *the swift glues these thin twigs to a wall using its own saliva as a fixative.*

► **adj.** (of a substance) used to fix or stabilize something. (of)

**fixed** /fiksɪd/ ► **adj.** 1 fastened securely in position: *a fixed iron ladder down the port side.* ■ remaining in the

same place with respect to another object: *a fixed satellite.* ■ (esp. of a price, rate, or time) predetermined and not subject to or able to be changed: *most trusts locked investors in for a fixed period.* ■ (of a person's expression) held for a long time without changing, esp. to conceal other feelings: *a fixed smile.* ■ (of a view or idea) held inflexibly: *the fixed assumptions of the cold war.* 2 [predic.] (fixed for) *informal* situated with regard to: *how's the dub fixed for money now?* 3 (of a sports contest) with the outcome dishonestly predetermined: *the fight's fixed—the ref has your card marked.* —**fixed-ly** /'fiksɪdli/ *adv.* —**fixed-ness** /'fiksɪdnɪs/ *n.*

**fixed as-sets** ► **plural n.** assets that are purchased for long-term use and are not likely to be converted quickly into cash, such as land, buildings, and equipment. Compare with **CURRENT ASSETS.**

**fixed cap-i-tal** ► **n.** capital invested in fixed assets.

**fixed charge** ► **n.** a liability to a creditor that relates to specific assets of a company.

**fixed costs** ► **plural n.** business costs, such as rent, that are constant whatever the quantity of goods or services produced.

**fixed-do** /'fɪkst 'dɒ/ (Brit. **fixed-doh**) ► **adj.** [attrib.] *Music* denoting a system of solmization in which C is called "do," D is called "re," etc., irrespective of the key in which they occur. Compare with **MOVABLE-DO.**

**fixed fo-cus** ► **n.** a camera focus that cannot be adjusted, typically used with a small-aperture lens having a large depth of field.

**fixed i-de-à** ► **n.** another term for **IDÉE FIXE.**

**fixed in-come** ► **n.** an income from a pension or investment that is set at a particular figure and does not vary (as a dividend) or rise with the rate of inflation.

**fixed oil** ► **n.** a nonvolatile oil of animal or plant origin.

**fixed point** ► **n.** *Physics* a well-defined reproducible temperature that can be used as a reference point, e.g., one defined by a change of phase. ► **adj.** (fixed-point) *Computing* denoting a mode of representing a number by a single sequence of digits whose values depend on their location relative to a predetermined radix point: *these computers perform arithmetic in fixed-point binary format.* Often contrasted with **FLOATING-POINT.**

**fixed star** ► **n.** see **STAR** (sense 1).

**fixed-wing** ► **adj.** [attrib.] denoting aircraft of the conventional type as opposed to those with rotating wings, such as helicopters.

**fix-er** /'fiksər/ ► **n.** 1 a person who makes arrangements for other people, esp. of an illicit or devious kind. 2 a substance used for fixing a photographic image.

**fix-er-up-per** ► **n.** *Informal* a house in need of repairs (used chiefly in connection with the purchase of such a house).

**fix-ing** /'fiksɪŋ/ ► **n.** 1 the action of fixing something: *artificial price fixing.* 2 (fixings) apparatus or equipment for a particular purpose: *picnic fixings.* ■ the ingredients necessary to make a dish or meal: *have all the fixings ready before starting.* ■ Brit. screws, bolts, or other items used to fix or assemble building material, furniture, or equipment.

**fix-it** /'fiksɪt/ ► **n.** *Informal* a person known for repairing things or putting things in order: *he pictured himself as a Mr. Fixit.* ■ [usu. as *adj.*] an act of repairing or putting something right: *a fixit shop.* ▶early 20th cent.: from *Little Miss Fixit*, the title of a musical show.

**fix-i-ty** /'fiksɪti/ ► **n.** the state of being unchanging or permanent: *the fixity of his stare.* ▶mid 17th cent. (denoting the property of a substance of not evaporating or losing weight when heated): partly from obsolete *fix* 'fixed,' partly from French *fixité*.

**fix-ture** /'fiksətʃər/ ► **n.** 1 a piece of equipment or furniture that is fixed in position in a building or vehicle: *a light fixture.* ■ (fixtures) articles attached to a house or land and considered legally part of it so that they normally remain in place when an owner moves: *the hotel retains many original fixtures and fittings.* Compare with **FITTING** (sense 1). ■ *Informal* a person or thing that is established in a particular place or situation: *palm readers were a fixture in most '40s nightclubs.* 2 Brit. a sports event that takes place on a particular date. ▶late 16th cent. (in the sense 'fixing, becoming fixed'): alteration (first found in Shakespeare) of obsolete *fixure* (from late Latin *fixura*, from Latin *figere* 'to fix'), with *t* inserted on the pattern of *mixture*.

**fizz** /fɪz/ ► **v.** [intrans.] (of a liquid) produce bubbles of gas and make a hissing sound: *the mixture fizzed like mad.* ■ make a buzzing or crackling sound: *lightning starts to crackle and fizz.* ■ [with *adverbial*] *figurative* move with or display excitement, exuberance, or liveliness: *anticipation began to fizz through his veins.*

► **n.** effervescence: *the champagne had lost its fizz.* ■ *Informal* an effervescent drink, esp. sparkling wine: *a bottle of grapefruit fizz.* ■ *figurative* exuberance; liveliness: *she saw I had lost some of my fizz.* ■ a buzzing or crackling sound: *the fizz of 300 sparklers.* ▶mid 17th cent.: imitative.

**fiz-zle** /'fɪzəl/ ► **v.** [intrans.] end or fail in a weak or disappointing way: *they threatened revolt fizzled out at yesterday's meeting.* ■ make a feeble hissing or spluttering sound: *the strobe lights fizzled and flickered.*

► **n.** a failure: *in the end the fireworks were a fizzle.* ■ a feeble hissing or spluttering sound: *the electric fizzle of the waves.* ▶late Middle English (in the sense 'break wind quietly'): probably imitative (compare with **FIZZ**), but perhaps related to Middle English *fist* (see **FEISTY**). Current senses date from the 19th cent.

**fiz-zog** /'fɪz, ʒɔːg/ ► **n.** another term for **PHIZ.**

**fizz-y** /'fɪzə/ ► **adj.** (fizz-ier, fizz-i-est) (of a beverage) containing bubbles of gas; effervescent: *fizzy mineral water.* —**fizz-i-ly** /'fɪzəli/ *adv.* —**fizz-i-ness** /'fɪzənɪs/ *n.*

**fjord** /fjɔːrd/ (also *fjord*) ► **n.** a long, narrow, deep inlet of the sea between high cliffs, as in Norway and Iceland, typically formed by submergence of a glaciated valley. ▶late 17th cent.: Norwegian, from Old Norse *fjörðr*. Compare with **FIRTH.**

**FL** ► *abbr.* Florida (in official postal use).

**fL** ► *abbr.* foot-lambert.

**fl** ► *abbr.* ■ floor. ■ flourish. ■ fluid.

**Fla.** ► *abbr.* Florida.

**flab** /flab/ ► **n.** *Informal* soft loose flesh on a person's body; fat. ▶1950s: back-formation from **FLABBY.**

**flab-ber-gast** /'flabər, gɑːst/ ► **v.** [trans.] [usu. as *adj.*] (flabbergasted) *Informal* surprise (someone) greatly; astonish: *this news has left me totally flabbergasted.* ▶late 18th cent.: of unknown origin.

**flab-by** /'flabə/ ► **adj.** (-bi-er, -bi-est) (of a part of a person's body) soft, loose, and fleshy: *this exercise helps to flatten a flabby stomach.* ■ (of a person) having soft loose flesh. ■ *figurative* not tightly controlled, powerful, or effective: *the quartet playing was uncommitted and flabby.* ▶late 17th cent.: alteration of earlier *flap-py*. —**flab-bi-ly** /'flabəli/ *adv.* —**flab-bi-ness** /'flabənɪs/ *n.*

**fla-bel-lum** /'flə'beləm/ ► **n.** (pl. *bel-la* /'bele/) a fan, esp. an elegant, ornamental one used in Christian ritual. ■ *Biology* historical a fan-shaped organ, part, or anatomical structure.

**flac-cid** /'fla(k)sɪd/ ► **adj.** (of part of the body) soft and hanging loosely or limply, esp. so as to look or feel unpleasant: *she took his flaccid hand in hers.* ■ (of plant tissue) drooping or inelastic through lack of water. ■ *figurative* lacking force or effectiveness: *the flaccid leadership campaign was causing concern.* ▶early 17th cent.: from French *flaccide* or Latin *flaccidus*, from *flaccus* 'flabby.' —**flac-cid-i-ty** /'fla(k)'sɪdəti/ *n.* —**flac-cid-ly** *adv.*

**flack** /flæk/ ► **n.** a publicity agent; a public relations flack.

► **v.** [trans.] publicize or promote (something or someone): *a crass ambulance-chaser who flacks himself in TV ads* | [intrans.] the local news media shamelessly flack for the organizing committee. ▶1940s: of unknown origin. —**flack-ery** /-ərɪ/ *n.*

**flack**² ► **n.** variant spelling of **FLAK.**

**flac-on** /'flækən/; *fla'kɒn* / ► **n.** (pl. *flac-ons* *pronounced* same or /-kən/) a small stoppered bottle, esp. one for perfume. ▶early 19th cent.: French, 'flask.'

**flag**¹ /flæg/ ► **n.** 1 a piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as the symbol or emblem of a country or institution or as a decoration during public festivities: *the American flag.* ■ used in reference to the country to which a person has allegiance: *the private's heroism served as an example for every soldier under the flag.* ■ a ship's country of registry. ■ a small piece of cloth, typically attached to one edge to a pole, used as a marker or signal in various sports: *jumped the starter's flag, did he?* ■ the ensign carried by a flagship as an emblem of an admiral's rank. 2 a device, symbol, or drawing typically resembling a flag, used as a marker: *golf courses are*

**Pronunciation** Key a ago; ər over; 'ə or, ə up; 'ər or, ər fur; a hat; ā rate; ā car; ch chew; e let; ē see; e(ə) air; i fit; ī by; i(ə) ear; ŋa sing; ō go; ô for; oi boy; ô good; ôō goo; ou out; sh she; th thin; th then; (h)w why; zh vision